

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

MELODY SPENCER,

Appellant

v.

KARL ZOBRIST, ET AL..

Respondents

DOCKET NUMBER WD71364

DATE: June 29, 2010

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Jay A. Daugherty, Judge

Appellate Judges:

Division Four: Thomas H. Newton, C.J., James Edward Welsh, and Alok Ahuja, JJ.

Attorneys:

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Counsel for Appellant,

Attorneys:

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Counsel for Respondents.

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

MELODY SPENCER, Appellant,
v.
KARL ZOBRIST, ET AL., Respondents

WD71364

Jackson County

Before Division Four Judges: Thomas H. Newton, C.J., James Edward Welsh, and Alok Ahuja, JJ.

Melody Spencer seeks judicial review of the Kansas City Board of Police Commissioners' decision to terminate her employment as a police officer with the Kansas City Police Department. The Board found that Spencer violated Department policies by failing to seek medical help for a sick arrestee who requested medical attention and by treating the arrestee in a discourteous and undignified manner. The circuit court affirmed the Board's decision to terminate Spencer's employment, and Spencer appeals. On appeal, Spencer asserts that the Board failed to determine whether cause existed to terminate her employment and that the Board applied the wrong legal standard in terminating her. She also contends that cause did not exist to terminate her.

AFFIRMED.

Division Four holds:

Although the Board did not expressly state that Spencer's policy violations constituted "cause" for termination, its findings demonstrate how Spencer's policy violations related to and affected the administration of the office and were of a substantial nature directly affecting the rights and interests of the public. Thus, the findings fall squarely within the Missouri Supreme Court's definition of the cause necessary for discharging a police officer.

When the Board's order is considered in its entirety, it is clear that the Board held the police chief to the correct preponderance of the evidence standard of proof. The Board's findings of fact and conclusions of law show that it resolved conflicts in the evidence against Spencer and determined that the police chief's position was more probable, credible, and convincing. The Board's determination that there was competent and substantial evidence to support its decision was superfluous.

The Board did not err in finding that cause existed to terminate Spencer's employment. First, substantial and competent evidence supports the Board's finding that Spencer was on fair notice that the Department's policy required her to call for an ambulance when a sick or injured person requested medical help. Second, substantial and competent evidence supports the Board's decision that Spencer spoke to and treated the arrestee disrespectfully and, in doing so violated the Department's policy requiring officers to treat the public with courtesy, consideration, and dignity. Third, the Board did not abuse its discretion in deciding that termination was the appropriate remedy for Spencer's policy violations.

Opinion by: James Edward Welsh, Judge

June 29, 2010

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